

REMARKS

In the November 20, 2002 Office Action, the drawings and claim 49 were objected to, and claims 1-53 stand rejected in view of prior art. Additionally, claims were provisionally rejected under the judicially created doctrine of obviousness-type double patenting. No other objections or rejections were made in the Office Action.

Status of Claims and Amendments

In response, Applicant has amended independent claims 1, 2, 11, 18, 41, 49 and 51 to more clearly distinguish the prior art, and to overcome the objections set forth in the Office Action. Also, Applicant has amended claims 5, 18, 37, 38, 43, 49 and 50 to correct minor informalities. Thus, claims 1-53 are pending, with claims 1, 2, 11, 18, 41 and 49-51 being the only independent claims. Reexamination and reconsideration of the pending claims are respectfully requested in view of the above amendments and the following comments.

Interview

On February 25, 2003, the undersigned conducted a personal interview with the Examiner in charge of the above-identified patent application at the U. S. Patent and Trademark Office. Applicant wishes to thank the Examiner Burch for the courteous interview. Basically, independent claims 1, 2, 11, 18, 41 and 49-51 were discussed during the interview.

Specifically, the undersigned argued that these independent claims are patentable over the various references cited in the various rejections of the November 20, 2002 Office Action. More specifically, the undersigned basically argued that the Laughlin '354 patent fails to show rear latches that move as claimed, or the rear catches of the boot as claimed, as explained in more detail below. The undersigned also argued that the other references do not account for the deficiencies of the Laughlin '354 patent. Regarding claim 49, the undersigned argued that the Karol patent fails to disclose a binding system which couples the boot at two heights relative to the binding, as also explained in more detail below. Unfortunately, agreement was not reached with respect to independent claims 1, 2, 11, 18, 41, 49 and 51. However, agreement was reached with respect to independent claim 50 that the features of this independent claim are not disclosed or suggested in the references cited in the Office Action in order to reject this claim.

Regarding independent claims 1, 2, 11, 18, 41, 49 and 51, general proposals for amending these independent claims in order to more clearly distinguish the prior art were

discussed during the Interview. The Examiner indicated that the general proposals, discussed during the Interview appear to overcome the current rejections, but may raise new issues. The undersigned believes that the foregoing amendments to independent claims 1, 2, 11, 18, 41, 49 and 51 incorporate the general proposals, which were discussed during the personal Interview. Accordingly, Applicant believes independent claims 1, 2, 11, 18, 41, 49 and 51, as now amended, and claim 50 are now allowable over the prior art of record, as discussed below in more detail.

Drawings

In paragraphs 1 and 2 of the Office Action, the drawings were objected to because the "rear ends" of claim 41 are not clearly identified, and Proposed Drawing Corrections or Corrected Drawings are required. In response, Applicant has deleted the "rear ends" from claim 41 to overcome this objection. Applicant believes that the drawings now comply with 37 CFR §1.84(p)(5) and 37 CFR §1.83(a), without any changes. Thus, Applicant has not submitted Proposed Drawings Corrections or Corrected Drawings. Rather, Applicant believes this objection is moot in view of the changes made to independent claim 41 by the current Amendment. Accordingly, Applicant respectfully requests withdrawal of this objection.

Claim Objections

In paragraph 3 of the Office Action, claim 49 was objected to for informalities. In response, Applicant has corrected the informalities noted in the Office Action. Accordingly, withdrawal of this objection is respectfully requested.

Rejections - 35 U.S.C. § 102

In paragraphs 4-5 (pages 2-4) of the Office Action, claims 1, 2, 4-10, 16, 41-46 and 51 stand rejected under 35 U.S.C. §102(e)(2) as being anticipated by U.S. Patent No. 6,123,354 to Laughlin et al. (hereinafter "the Laughlin '354 patent"). In response, Applicant has amended independent claims 1, 2, 41 and 51 to more clearly define the present invention over the prior art of record.

In particular, independent claims 1, as now amended, clarifies that the rear binding member coupled to a first lateral side of the rear portion of the base plate to extend inwardly toward the center longitudinal axis into a snowboard boot receiving area above the base plate, and that the first latch member is arranged to move downwardly toward said base member and laterally outwardly away from the center longitudinal axis of the base member upon

application of a force on the first latch member in a direction substantially towards the base member by the snowboard boot, and to move upwardly away from the base member and laterally inwardly upon removal of the force.

Independent claim 2, as now amended, requires first and second latch members arranged to move downwardly toward the base member and laterally outwardly away from ~~relative to~~ each other and away from said longitudinal axis upon application of a force on the first and second latch members in the direction substantially towards said base member.

Independent claim 41, as now amended, requires a first rear catch portion including at least one longitudinally extending first notch and a second rear catch portion including at least one longitudinally extending second notch, the first notch being open in a rearward direction such that the first notch is viewable in a longitudinal direction from behind the first rear catch portion and such that a first latch of a snowboard binding can slide longitudinally rearwardly within the first notch out of engagement with the first notch when the snowboard boot is coupled to the snowboard binding and moved longitudinally forward relative thereto, and the second notch being open in a rearward direction such that the second notch is viewable in a longitudinal direction from behind the second rear catch portion and such that a second latch of the snowboard binding can slide longitudinally rearwardly within the second notch out of engagement with the second notch when the snowboard boot is coupled to the snowboard binding and moved longitudinally forward relative thereto.

Independent claim 51, as now amended, requires a first rear catch portion including a pair of longitudinally extending substantially parallel first notches and a second rear catch portion including a pair of longitudinally extending substantially parallel second notches, the first notches being arranged at different vertical heights and being **substantially aligned** with each other as viewed in a vertical direction such that each of the first notches is selectively engagable with a first latch of a snowboard binding, and the second notches being arranged at different vertical heights and being **substantially aligned** with each other as viewed in said vertical direction such that each of the second notches is selectively engagable with a second latch of the snowboard binding.

Clearly, these unique structures of independent claims 1, 2, 41 and 51 are *not* disclosed or suggested by the Laughlin '354 patent or any other prior art of record, as discussed during the personal interview and explained below.

Specifically, regarding independent claims 1 and 2, in the Laughlin '354 patent the latches ***move downwardly and inwardly toward the center longitudinal axis*** upon application of a force in a direction toward the base of the binding, not ***downwardly and outwardly away from the center longitudinal axis***, as required by independent claims 1 and 2, as now amended. The latches of the Laughlin '354 patent are then maintained in the moved position until the release levers are actuated. When the release levers are actuated, the latches then move upwardly and outwardly. Thus, the Laughlin '354 patent clearly fails to disclose all of the limitations of independent claims 1 and 2.

Regarding claim 41, the Laughlin '354 patent discloses a boot with openings configured to receive the latches. In the Laughlin '354 patent, the ***openings are closed at both ends***, not ***open in the rearward direction*** such that the notches are longitudinally viewable from behind the first and second rear catch portions and ***such that first and second latches of a snowboard binding can slide longitudinally rearwardly within the notches out of engagement with the notches when the snowboard boot is coupled to the snowboard binding and moved longitudinally forward relative thereto***. Thus, the Laughlin '354 patent clearly fails to disclose all of the limitations of independent claim 41.

Regarding independent claim 51, the Laughlin '354 patent discloses a boot with openings 19 and 21 that are arranged at the same height, longitudinally spaced from each other as viewed in the vertical direction, and configured to receive the latches 15 and 17. In the Laughlin '354 patent, a cutout 43 is located between the notches 19 and 21 to receive the trigger 39. Thus, in the Laughlin '354 patent, the various cutouts 19, 21 and 43 are ***not*** arranged at different vertical heights and ***substantially*** aligned with each other as viewed in a vertical direction ***such that each is selectively engagable with a latch of a snowboard binding***. Thus, the Laughlin '354 patent clearly fails to disclose all of the limitations of independent claim 51.

It is well settled under U.S. patent law that for a reference to anticipate a claim, the reference must disclose each and every element of the claim within the reference. Therefore, Applicant respectfully submits that claims 1, 2, 41 and 51, as now amended, are not anticipated by the prior art of record, as suggested in the Office Action. Withdrawal of this rejection is respectfully requested.

Moreover, Applicant believes that the dependent claims 4-10, 16 and 42-46 are also allowable over the prior art of record in that they depend from independent claims 2 and 41,

and therefore are allowable for the reasons stated above. Also, the dependent claims 4-10, 16 and 42-46 are further allowable because they include additional limitations. Thus, Applicant believes that since the prior art of record does not anticipate the independent claims 2 or 41, neither does the prior art anticipate their respective dependent claims.

Rejections - 35 U.S.C. § 103

In paragraphs 6-12 (pages 5-13) of the Office Action, claims 3, 11-15, 17-40, 47-50, 52 and 53 stand rejected under 35 U.S.C. §103(a) as being unpatentable over a variety of combinations of references. In particular, these claims stand rejected as follows:

Claims 14, 37 and 38 stand rejected as being unpatentable over the Laughlin '354 patent in view of U.S. Patent No. 6,213,493 to Korman (hereinafter "the Korman patent") as applied to the claims above, and further in view of U.S. Patent No. 5,544,909 to Laughlin et al. (hereinafter the Laughlin '909 patent").

Claim 15 stands rejected as being unpatentable over the Laughlin '354 patent in view of the Laughlin '909 patent.

Claim 17 stands rejected as being unpatentable over the Laughlin '354 patent in view of French Patent Publication No. 2767486 to Couderc (hereinafter "the Couderc publication").

Claims 3, 11-13, 18-36, 39, 47, 50, 52 and 53 stand rejected as being unpatentable over the Laughlin '354 patent in view of the Korman patent.

Claim 40 stands rejected as being unpatentable over the Laughlin '354 patent in view of the Korman patent as applied to claim 39 and further in view of the Couderc publication.

Claim 48 stands rejected as being unpatentable over the Laughlin '354 patent in view of the Korman patent as applied to claim 47 and further in view of U.S. Patent No. 5,915,720 to Turner et al. (hereinafter "the Turner patent").

Claim 49 stands rejected as being unpatentable over U.S. Patent No. 5,690,351 to Karol (hereinafter "the Karol patent") in view of U.S.

Patent No. 4,352,508 to Spademan (hereinafter "the Spademan patent")
and the Korman patent.

In other words, the Laughlin '354 patent is the primary reference used in rejecting claims 3, 11-15, 17-40, 47, 48, 50, 52 and 53, while the remaining references are used in various combinations with the Laughlin '354 patent in rejecting these claims. On the other hand, claim 49 is rejected relying on various other references. In response, Applicant has amended claims 1, 2, 11, 18, 41, 49 and 51 to more clearly define the present invention over the prior art of record. With respect to claim 50, Applicant respectfully traverses this rejection, discussed during the interview and below.

First, regarding independent claims 1, 2 and 41, Applicant believes the Laughlin '354 patent fails to disclose or suggest the unique arrangements of these independent claims, as discussed above. The other references cited in the Office Action fail to remedy the deficiencies of the Laughlin '354 patent. Thus, even if these references were combined as suggested in the Office Action it would not result in the claimed invention of independent claims 1, 2 and 41. Moreover, there is no suggestion or expectation of success for combining the patents and/or modifying such a combination to create the Applicant's unique arrangement of independent claims 1, 2 and 41. Accordingly, withdrawal of the rejections of claims 3, 17, 47, 48 and 52 are respectfully requested since these claims depend from claims 1, 2 and 41.

Second, attention will now be directed to claim 11. Independent claim 11, as now amended, requires a front binding member including a connecting portion and a binding flange that is arranged to move in a forward and downward direction relative to the base member when moving from the latched position to the release position relative to the longitudinal axis, the connecting portion being extending from a forward end of the binding flange in the latched position such that the connecting portion is configured to limit forward movement of a front catch of a snowboard boot along the longitudinal axis in the latched position. Clearly this unique arrangement is not disclosed or suggested by the various combinations of references cited in the Office Action. More specifically, the Laughlin '354 patent does not disclose a front binding member whatsoever. The Office Action relies on the Korman patent to disclose a front binding member and asserts that it would have been obvious to one of ordinary skill in the art to combine the front binding arrangement of the

Korman patent with the binding system of the Laughlin '354 patent. However, the Korman patent clearly fails to disclose or suggest the front binding member, as now required by independent claim 11. Rather, the Korman patent discloses a front binding member that normally pivots rearwardly, and does not limit forward movement of the front catch of the snowboard boot. Thus, even if these references were combined as suggested in the Office Action it would not result in the claimed invention. Moreover, there is no suggestion or expectation of success for combining the patents and/or modifying such a combination to create the Applicant's unique arrangement of independent claim 11. Accordingly, withdrawal of the rejection of claim 11 is respectfully requested. Moreover, withdrawal of the rejections of claims 12-15 and 53 are also respectfully requested since these claims depend from independent claim 11, and thus, further limit independent claim 11.

Referring now to independent claim 18, Applicant has amended claim 18 in a manner similar to claim 2. Applicant believes the Laughlin '354 patent fails to disclose or suggest this unique arrangement, as discussed above. The other references cited in the Office Action suffer from similar deficiencies. In particular, the other references cited in the Office Action fail to disclose or suggest latch members arranged to move downwardly toward the base member and laterally outwardly relative to each other away from the longitudinal axis upon application of a force on the latch members in the direction substantially towards the base member. Thus, even if these references were combined as suggested in the Office Action it would not result in the claimed invention. Moreover, there is no suggestion or expectation of success for combining the patents and/or modifying such a combination to create the Applicant's unique arrangement of independent claim 18. Accordingly, withdrawal of the rejection of claim 18 is respectfully requested. Moreover, withdrawal of the rejections of claims 19-40 are also respectfully requested since these claims depend from independent claim 18, and thus, further limit independent claim 18.

Referring now to independent claim 50, Applicant respectfully traverses this rejection. Independent claim 18 basically corresponds to original claim 18 but requires first and second latch members and first and second rear catches configured to allow forward longitudinal movement of the snowboard boot relative to the snowboard binding, and ***the front binding member and the front catch being configured to limit longitudinal movement of the front catch in a forward direction along the longitudinal axis when the front binding member is in the latched position holding the front catch.*** Clearly, this unique combination of features

is not disclosed or suggested by the Laughlin '354 patent and/or the Korman patent as suggested in the Office Action, and discussed during the personal interview. Specifically, the Korman patent discloses a front binding member that normally pivots rearwardly, and does not limit forward movement of the front catch of the snowboard boot. Moreover, the latches and catches of the Laughlin '354 patent do not allow forward longitudinal movement of the boot relative to the binding. Thus, even if these references were combined as suggested in the Office Action it would not result in the claimed invention. Moreover, there is no suggestion or expectation of success for combining the patents and/or modifying such a combination to create the Applicant's unique arrangement of independent claim 50. Accordingly, withdrawal of this rejection is respectfully requested.

Referring now to independent claim 49, Applicant has amended claim 49 in a manner similar to claims 18 and 51. This claim is directed to a binding system that requires a snowboard boot and a snowboard binding. The amendments to independent claim 49 clarify the arrangements of the latches of the binding relative to the rear catches of the snowboard boot that allows ***the snowboard boot to be coupled to the binding at two predetermined heights relative to the snowboard binding***. Clearly this arrangement is not disclosed in the Karol, Spademan and/or Korman patents as suggested in the Office Action. Rather, the snowboard binding systems of these patents have structure capable of coupling a boot at only one height relative to the snowboard binding. Thus, even if these references were combined as suggested in the Office Action, it would not result in the unique arrangement of independent claim 49, as now amended. Moreover, there is no suggestion or expectation of success for combining the patents and/or modifying such a combination to create the Applicant's unique arrangement of independent claim 49. Accordingly, withdrawal of this rejection is respectfully requested.

Clearly the unique arrangements of independent claims 1, 2, 11, 18, 41, 49 and 50 are ***not*** disclosed or suggested by any of the prior art of record either alone or in combination, as discussed above. Moreover, there is no suggestion or motivation to modify the references cited in the Office Action or the various combinations thereof to result in the unique arrangements of independent claims 1, 2, 11, 18, 41, 49 and 50. It is well settled in U.S. patent law that the mere fact that the prior art can be modified does ***not*** make the modification obvious, unless the prior art ***suggests*** the desirability of the modification. Accordingly, the prior art of record lacks any suggestion or expectation of success for

combining the patents to create the Applicant's unique arrangements of independent claims 1, 2, 11, 18, 41, 49 and 50. Accordingly, withdrawal of the rejections of claims 3, 11-15, 17-40, 47-50, 52 and 53 is respectfully requested.

Double Patenting

In paragraph 14-15 (pages 13-15), claims are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of several co-pending application numbers. The Office Action indicates that although the conflicting claims are not identical, they are not patentably distinct from each other. Finally, the Office Action indicates that Applicant and/or Assignee is advised to draft the claims in such a way as to maintain a clear line of patentable distinction between the instant claims and the claims of the other applications. The double patenting rejection is indicated as being a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

First, Applicant notes that since the mailing date of the November 20, 2003 Office Action, Appln. Serial Nos. 09/997,241 and 09/997,259 have been allowed. Appln. Serial No. 09/997,241 will issue 03/25/03 as U.S. Patent No. 6,536,795 and Appln. Serial No. 09/997,259 issued 03/11/03 as U.S. Patent No. 6,530,590. Thus, in response to this Office Action, Applicant has filed herewith a Terminal Disclaimer for these two applications, to overcome any potential double patenting rejection in view of these applications.

Regarding the other copending applications, Applicant notes that if a provisional double patenting rejection is the only rejection remaining in an application, the provisional double patenting rejection should then be withdrawn to allow that application to issue as a patent. (See MPEP 804, pp. 800-19). As discussed above, Applicant believes the claims of this application, as now amended are allowable over the prior art. Thus, Applicant believes the provisional double patenting rejection set forth in this Office Action should be withdrawn, and this application should be allowed. Accordingly, Applicant respectfully requests reconsideration of this rejection.

Applicant acknowledges that if one or more of the later filed applications (not identified in the Terminal Disclaimer, filed herewith), which were identified in the Office Action, issue as patent(s) prior to the instant application being patented, the provisional double patenting rejection in the instant application could be changed to an actual double patenting rejection.

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In view of the foregoing amendment and comments, Applicant respectfully asserts that claims 1-53 are now in condition for allowance. Reexamination and reconsideration of the pending claims are respectfully requested. If there are any questions regarding this Amendment, please feel free to contact the undersigned.

Respectfully submitted,



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